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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,839	06/01/2004	Daniel C. Fosbinder	ITW7510.086	3838
33647	7590	08/01/2006	EXAMINER	
ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (ITW) 14135 NORTH CEDARBURG ROAD MEQUON, WI 53097			SHAW, CLIFFORD C	
			ART UNIT	PAPER NUMBER
			1725	

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/709,839	<b>Applicant(s)</b> FOSBINDER ET AL.	
	<b>Examiner</b> Clifford C. Shaw	<b>Art Unit</b> 1725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5-17 and 19-26 is/are rejected.
- 7) ☒ Claim(s) 2-4 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>0614</u> . | 6) <input type="checkbox"/> Other: ____.  |

**Detailed Action**

1.) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2.) Claims 1, 5-17, and 19-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeCoster et al. (6,103,994). Figures 1-3 and the discussion at columns 6-9 in the patent to DeCoster et al. (6,103,994) disclose a welding power source at element 20 controlled by remote control devices at 29, using a processor 28 to select from various remote control options. The claims differ from the teachings of DeCoster et al. (6,103,994) in calling for detection of a “control irregularity” (claims 1 and 26), a “performance abnormality” (claim 10), or a “remote control malfunction” (claim 17). These differences do not patentably distinguish over the prior art. The system of DeCoster et al. (6,103,994) will detect whether or not a suitable remote

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control device is connected for the welding procedure selected in the power supply system and will override the remote control process if the wrong remote control device is connected (see, for example, column 8, lines 1-11 in DeCoster et al. (6,103,994)). It is considered obvious that this feature constitutes detection of a “control irregularity”, “performance abnormality” or “remote control malfunction” because the remote control device 30, 31, or 32 will not function in a normal or expected manner if it does not match the selected welding process. In regard to the user notification in claims 5 and 14, note that the user will be notified of a problem in the remote control operation when the remote control unit is deactivated in the system of DeCoster et al. (6,103,994) and does not control the power supply.

3.) Claims 1, 5-17, and 19-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kneisley et al. (5,777,295). Figures 1 and 2 and the discussion at columns 2-4 in the patent to Kneisley et al. (5,777,295) disclose a welding power source at 10 controlled by remote control 30. When the plug 34 of the remote control unit is disconnected, the control function is shifted to control 24. The claims differ from the teachings of Kneisley et al. (5,777,295) in calling for detection of a “control irregularity” (claims 1 and 26), a “performance abnormality” (claim 10), or a “remote control malfunction” (claim 17). These differences do not patentably distinguish over the prior art. The system of Kneisley et al. (5,777,295) will detect whether or not a remote control device is connected at plug 34 for whatever reason, intentional or unintentional. It is considered obvious that this feature constitutes detection of a “control irregularity”, “performance abnormality” or “remote control malfunction” because the system of Kneisley et al. (5,777,295) will detect the situation where the remote control device is accidentally not

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plugged into the power supply. In regard to the user notification in claims 5 and 14, note that the user will be notified of a problem in the remote control operation when the remote control unit is deactivated in the system of Kneisley et al. (5,777,295) and does not control the power supply.

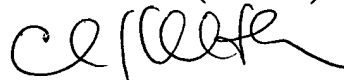
4.) Claims 2-4 and 18 are objected to for depending from rejected claims, but would be given favorable consideration if recast in independent form to include all of the limitations of the parent claims. None of the prior art of record teaches or suggests a welding-type controller with all of the features of claim 2, particularly the limitations directed to a processor configured to monitor the feedback to detect a rate of change in control commands as set forth in the claim. Claims 3 and 4 are allowable at least because they depend from claim 2. None of the prior art of record teaches or suggests an apparatus with all of the features of claim 18, particularly the limitations directed to a backup control that is configured to detect a rate of change of control commands as set forth in the claim.

Any inquiry concerning this communication should be directed to Clifford C Shaw at telephone number 571-272-1182. The examiner can normally be reached on Monday through Friday of the first week of the pay period and on Tuesday through Friday of the second week of the pay period.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Patrick J. Ryan, can be reached at 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Clifford C Shaw  
Primary Examiner  
Art Unit 1725

July 28, 2006